

## **§ 1180.6**

public dissemination through any distribution channel, and, whenever practical, as soon as it has been approved by the agency for final printing or other reproduction, unless the agency and the Director have otherwise agreed.

### **§ 1180.6 Production of additional copies.**

Unless the agency determines that such action would not be feasible, it shall make appropriate arrangements to enable NTIS, from time to time and at NTIS's own discretion and expense, to ride agency printing and other reproduction orders.

### **§ 1180.7 Exceptions.**

(a) An agency shall not be required to take any further action to submit a copy of a final STEI product to NTIS or one of its affiliates if—

(1) It has designated NTIS to receive a single copy of each STEI product once it has been produced, has made the arrangements specified in § 1180.6, if appropriate, and has made arrangements to receive appropriate certification from a contractor, grantee or other external performer of federally funded research that a copy has been sent to NTIS or one of its affiliates within the appropriate time period pursuant to obligations incurred in the applicable funding agreement (see Appendix to this part) or pursuant to such other system as the agency has established to ensure timely transfer;

(2) The agency and the Director have executed an appropriate agreement or memorandum of understanding establishing an alternative system for compliance; or

(3) The federally funded STEI is protected by copyright for which no license has been reserved to the Government that would allow distribution by NTIS;

(4) The product is an agency generated article that is published in a privately produced journal; or

(5) The agency and the Director, pursuant to paragraph (b) of this section, have agreed that the transfer of a product otherwise covered by these regulations would not be appropriate.

(b) An agency and the Director shall be deemed to be in agreement within

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the meaning of paragraph (a)(3) of this section if the Director has not objected within 30 days to an agency's written notification of its determination that timely transfer of a product or category of products would not be appropriate under section 108 of the American Technology Preeminence Act. Examples of inappropriate transfers include:

(1) Transfers that could cause significant harm to an agency's existing dissemination program that is operating on a cost recovery basis, is operating in compliance with the policies described by OMB Circular A-130, and for which special arrangements that would permit supplemental distribution by NTIS cannot be negotiated.

(2) Federally funded STEI that has received, or is likely to receive, widespread distribution to most potential users at no charge.

### **§ 1180.8 Appointment of Agency Liaison Officers.**

The head of each agency shall appoint or designate an officer or employee to serve as the STEI Liaison. The Liaison shall, to the extent authorized by the head of the agency—

(1) In cooperation with the Director, determine what products or summaries produced by the Government shall be transferred to NTIS on an ongoing basis;

(2) Determine which funding agreements are to require contractors and grantees to submit products directly to NTIS (for which purpose the Appendix to this part contains suggested language that agencies may wish to include in applicable funding instruments);

(3) Appoint additional liaison officers for major units or components of an agency if the Director and Liaison officer agree this would further the purposes of this regulation; and

(4) Enter into appropriate agreements with the Director and perform any other agency responsibilities described in this regulation.

### **§ 1180.9 Affiliates.**

(a) The Director may recognize any federal agency or component of an agency as an affiliate for the purpose of receiving, on behalf of NTIS, any STEI

product that is required to be transferred under these regulations if NTIS has entered into a memorandum of understanding with the Liaison Officer under which the recognized affiliate agrees to the ongoing transfer of all STEI products to NTIS in a timely manner and otherwise agrees to assume the role of an affiliate.

(b) A transfer by an agency to an approved affiliate shall be deemed a transfer to NTIS within the meaning of these regulations.

#### § 1180.10 NTIS permanent repository.

A product, or category of product, will normally be accepted and maintained as part of NTIS' permanent repository as a service to agencies unless the Director advises the Liaison Officer that it has not been so accepted. In general, transferred products will not be accepted if they have not been properly prepared as required by Section 1180.4 or if NTIS believes that the cost of adding them to the repository will significantly exceed anticipated benefits to the public as measured by foreseeable demand. A product announced by NTIS as being available from NTIS shall be deemed to have been accepted by NTIS as part of its permanent repository.

#### § 1180.11 Relation to other laws and procedures.

(a) Nothing in these regulations shall be deemed to exempt an agency from any of the following requirements:

(1) Compliance with the Freedom of Information Act (5 U.S.C. 552);

(2) Compliance with any requirements to protect material that contains classified national security information;

(3) Compliance with requirements to protect personal or other information that may not be disclosed without appropriate authority under applicable laws and procedures, such as the Privacy Act (5 U.S.C. 552a);

(4) Compliance with laws and regulations applicable to federal records under Title 44 of the United States Code or regulations issued by the National Archives and Records Administration (36 CFR, chapter XII);

(5) Compliance with requirements to distribute publications through the De-

pository Library Program either directly or through NTIS as prescribed in subsection (d) of this section; and

(6) In the case of an agency that is also a component of an agency as that term is defined in § 1180.2, compliance with all applicable requirements and procedures of the parent agency regarding these regulations.

(b) Nothing in these regulations shall be deemed to require an agency to take any of the following actions:

(1) To use NTIS as an agency's exclusive distribution channel;

(2) To transfer to NTIS information on matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order; or

(3) to transfer, produce, or disseminate any other information that is required by law to be withheld, which the agency is authorized to withhold, or which is not intended by the agency for public dissemination.

(c) No contractor, grantee, or employee of a Federal agency shall submit a final STEI product directly to NTIS unless authorized to do so by the Liaison or the Liaison's designate, which authorization may be provided in an approved funding agreement (see Appendix to this part).

(d) In order to facilitate cooperation between agencies and the Depository Libraries—

(1) NTIS will, as soon as possible, but not later than six months from the effective date of these regulations, provide each Depository Library at no charge, online access to a current list of all final STEI products provided to NTIS under these regulations that have been entered into the NTIS system.

(2) The online system described in subsection (d) of this section will include an option that will allow each Depository Library thirty days from the date a product is added to the online listing to identify a product that it wishes to receive and that has not otherwise been made available to it.

(3) NTIS will accumulate these requests and, within a reasonable time,